

# **EXHIBIT E, Part 7**

Exhibits 8-10 to Affidavit of Trish Waterman

- Nov. 6, 2012 Letter to Tuhaye Owners
- Jan. 9, 2013 Letter and Invoices sent to  
Friends of Tuhaye
- July 2, 2013 Annual Tuhaye HOA  
Meeting Minutes

**EXHIBIT E, Part 7**

# **EXHIBIT 8**

# **EXHIBIT 8**

November 06, 2012

TO: Tuhaye Homeowners

TOPIC: Christopher Homes Exposed Foundations

I wanted to update all members of the Tuhaye Master Homeowners Association on the current status of our efforts to bring Christopher Homes into compliance with the Tuhaye HOA CC&R's.

At the end of 2011, after much effort on the part of Mark Thorne and others within the HOA and Talisker Mountain to advance the Christopher Homes project, the FDIC notified the HOA that operational control of the Christopher Homes project would remain with Christopher Homes under the direction of Gibraltar Capital.

Beginning in March of 2012 the Tuhaye Master HOA began a process of putting Christopher Homes on notice that the exposed foundations were an unsightly hazard that needed to be dealt with. Design Guideline enforcement notices were sent that called out areas of the development that are of specific concern. These notices included statements that made it clear that if the issue was not addressed; the HOA would take action to remedy the situation.

At the beginning of September, the board formally declared the exposed foundations a nuisance. This declaration was based on both the safety issue posed by the exposed foundations as well as the visual issues they create. This designation is specifically called out in the CCR's and provides the HOA with the ability to perform corrective work required to abate a declared nuisance and then assess the offending property owner for the cost of that work. Following that declaration, a Final Notice was issued by HOA attorneys calling out the nuisance designation, specific sections within the CCR's that are being violated, and estimated costs that would be assessed for filling the foundations. Legally, Christopher Homes had a 14 day period in which to respond to this final demand to abate the nuisance or present a satisfactory plan to abate the nuisance.

Christopher Homes and Gibraltar Capital did respond prior to the end of the waiting period. They denied that the foundations are a nuisance and threatened legal action should the HOA proceed with abating the nuisance by filling the foundations. They proposed a combination of a chain link construction fence surrounded by a landscaped berm. The board of directors reviewed their proposal and were unable to approve it based on the Tuhaye CCR's and Design Guidelines. The members of the Board of Directors and the Architectural Review Committee rejected the proposed solution.

On October 16 – the Tuhaye Board of Directors held the Q3 board meeting, where the new homeowner representative, Jim Pignatelli, was added to the Board. The Board reaffirmed the vote to reject the Christopher Homes proposal. The Board stated that the proposed solution was worse than the current situation. A fence would create an attractive nuisance and be more visually unappealing without actually disguising or covering the exposed foundations. The board expressed the position that the only real solution to the nuisance was to remove, bury, or build on the foundations. The board moved to abate the nuisance and fill the foundations at the earliest possible time.

Work began on October 31, 2012 by the HOA to abate the nuisance posed by the Christopher Homes exposed foundations. Work will continue as long as weather conditions permit. The HOA will do everything it legally can to enforce the Tuhaye CC&R's and hold all property owners to the same set of rules.

Please let me know if you have any questions about the current HOA situation. My email address is shurst@taliskermountain.com.

Thank you for your time.

*Steve Hurst*

Steve Hurst  
Director Tuhaye Master Owners Association

# **EXHIBIT 9**

# **EXHIBIT 9**

# TUHAYE

HOME OWNERS ASSOCIATION

January 9, 2012 2013

Mr. Ken Sailley  
Friends of Tuhaye, LLC  
Christopher Homes  
2950 E. Snowberry Way  
Tuhaye, UT 84036

**RE: Special Assessment(s) - Christopher Communities at Tuhaye**

Dear Mr. Sailley:

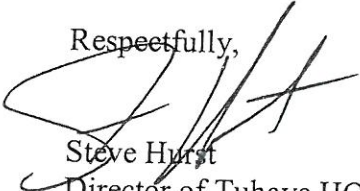
Enclosed are copies of your Special Assessment Invoices related to work done on your behalf by the Tuhaye Master HOA. The work performed was necessary to abate the previously noticed nuisances created by the exposed foundations on each of the separate parcels owned by Friends of Tuhaye, LLC and managed by Christopher Homes. As you are aware, the HOA's attorney, Mr. Shumway, provided notice of these nuisances, and the HOA's duty to abate them, in letters to you, dated September 10, October 3, and October 26, 2012. The Special Assessment amounts on each invoice represent the balance due for work performed to date and are not intended to be a final statement.

All assessments are due within 30 days from invoice date.

As previously communicated; the Association has acted under its rights enumerated in Section 7.5 of the Tuhaye CC&R's, and sections 57-8a-301—306 of the Community Association Act (Utah Statute 57-8a-301-306).

If you have any questions, please feel free to call me at (435) 333-3705. I look forward to your immediate attention to this matter.

Respectfully,



Steve Hurst

Director of Tuhaye HOA  
Tuhaye Architecture Review Committee

Cc: Tuhaye Architecture Review Committee  
Tuhaye Master Owners Association Board of Directors  
Douglas C. Shumway, Esq.

Tuhaye Home Owners Association

4188 SR248

PO Box 99

Kamas, Utah 84036

# Invoice

Date	Invoice #
1/1/2013	2013-COT-09

Bill To
Friends of Tuhaye, LLC Managing Partner: Christopher Homes Attn: Ken Sailley 23 Midnight Ridge Drive Las Vegas, NV. 89135

P.O. No.	Terms	Project
	Due on receipt	

Quantity	Description	Rate	Amount
1	Christopher Homes Cottage 09 - ARC Assessment on Foundation "Nuisance" 3121 E. Arrowhead Trail	12,704.75	12,704.75

Phone #	Fax #	E-mail
(435) 333-3700	(435) 333-3716	Chenderson@taliskermountain.com

**Total** \$12,704.75

Tuhaye Home Owners Association

4188 SR248

PO Box 99

Kamas, Utah 84036

# Invoice

Date	Invoice #
1/1/2013	2013-COT-10

Bill To
Friends of Tuhaye, LLC Managing Partner: Christopher Homes Attn: Ken Sailley 23 Midnight Ridge Drive Las Vegas, NV. 89135

P.O. No.	Terms	Project
	Due on receipt	

Quantity	Description	Rate	Amount
1	Christopher Homes Cottage 10 - ARC Assessment on Foundation "Nuisance" 3123 E. Arrowhead Trail	12,704.75	12,704.75

Phone #	Fax #	E-mail
(435) 333-3700	(435) 333-3716	Chenderson@taliskermountain.com

**Total** \$12,704.75



Tuhaye Home Owners Association

4188 SR248

PO Box 99

Kamas, Utah 84036

# Invoice

Date	Invoice #
1/1/2013	2013-CAB-15

Bill To
Friends of Tuhaye, LLC Managing Partner: Christopher Homes Attn: Ken Sailley 23 Midnight Ridge Drive Las Vegas, NV. 89135

P.O. No.	Terms	Project
	Due on receipt	

Quantity	Description	Rate	Amount
1	Christopher Homes Cabin 15 - ARC Assessment on Foundation "Nuisance" 3210 E. Broken Spear Trail	17,822.50	17,822.50

Phone #	Fax #	E-mail
(435) 333-3700	(435) 333-3716	Chenderson@taliskermountain.com

**Total** \$17,822.50

Tuhaye Home Owners Association

4188 SR248

PO Box 99

Kamas, Utah 84036

# Invoice

Date	Invoice #
1/1/2013	2013-CAB-18

Bill To
Friends of Tuhaye, LLC Managing Partner: Christopher Homes Attn: Ken Sailley 23 Midnight Ridge Drive Las Vegas, NV. 89135

P.O. No.	Terms	Project
	Due on receipt	

Quantity	Description	Rate	Amount
1	Christopher Homes Cabin 18 - ARC Assessment on Foundation "Nuisance" 3226 E. Broken Spear Trail	15,905.00	15,905.00

Phone #	Fax #	E-mail
(435) 333-3700	(435) 333-3716	Chenderson@taliskermountain.com

**Total** \$15,905.00

# **EXHIBIT 10**

# **EXHIBIT 10**

Tuhaye Home Owners Association Annual Meeting  
July 2, 2013 4:00pm – 5:30pm  
The Montage

**1. Welcome and Introductions** –Steve Hurst introduced himself and staff and thanked everyone for coming.

**2. Guest Speaker#1:** Kylan (Ky) Frye Christensen, M.E.M Conservation Biologist HawkWatch International. In February 2013, HawkWatch International completed a study encompassing Tuhaye the community and surrounding area with the objective of reducing rattlesnakes and encouraging birds to the area.

The study showed vegetation mapping of the area as predominately sagebrush, scrub/shrub, and grasses. This habitat provides cover suited for small mammals and a relatively open canopy and habitat structure that allows raptors to hunt effectively. Despite having potentially robust prey for raptors, the Tuhaye development largely lacks trees or power poles commonly used for hunting or nesting of raptors.

Careful consideration must be taken due to existing Federal and State regulations when introducing larger raptors. Although larger raptors directly impact snakes, raptors tend to be more aggressive. Additionally, red tail hawks become very territorial during breeding season, especially with young in the nest.

Smaller falcons, such as the American kestrels, eat mice & rodents. The American kestrels compete with snakes food supply. This direct competition to the snakes food supply is intended to cause a reduction in snake population.

The American kestrels, as well as other smaller falcons, are not state protected and adapt well to humans. The American kestrels are declining in population in a large portion of their range (Farmer and Smith 2009). Kestrels do not build their own nests but will occupy any appropriately-sized hole in a tree and or will occupy a previously used nest. Hawkwatch International recommends the installation of nest boxes to attract nesting pairs of American kestrels or other small raptors,

which may provide pest control and aid in conservation efforts. The HOA has built and installed nesting boxes throughout the community at various recommended locations.

Following the meeting, HawkWatch International will be available for questions. HawkWatch International will present Yaki, a female kestrel. She was found with an injury back in May 2002 and left on the doorstep of a rehabilitator. Due to her injury she can no longer fly. HawkWatch International acquired her in August 2002 as a teaching bird. Yaki's name is a reference to the HWI research site on the south rim of the Grand Canyon "Yaki Point".

#### **Turned over to Steve Hurst for Questions**

**Q.** Who is monitoring the bird houses?

**A.** The HOA maintenance team is monitoring. HawkWatch International can design a monitoring program for an additional fee.

**Q.** How many raptors were introduced to the area?

**A.** We have installed 22 nesting boxes within ½ mile range of each other. No actual raptors have been introduced or released.

**Q.** Can homeowners install one of these boxes on their private property?

**A.** Yes. Please contact the HOA for more information.

**Q.** How many kestrels are needed to decrease the snake population?

**A.** HawkWatch International recommended approximately 17-20 nest boxes. The HOA has installed 22 boxes. American kestrels nest in pairs with 4-6 young each year.

**Q.** How big a pet would a kestrel go after?

**A.** Possibly the size of a hamster.

### **3. HOA Overview and Updates:** Steve Hurst, Director HOA

There are currently 258 lots sold. There are 4 Bank owned (3 lots and 1 home). There are 20 Talisker (Developer) foreclosed lots that are back in developer inventory. There are 80 homes built.

There are currently 3 homes under construction; Kings Light 11, Kings Light 12 and 16S-43 and Lot 6 just completed construction. There is one home currently in the ARC process and we anticipate 2 others turning in plans within the next month.

### **WASATCH COUNTY FIRE ISSUE UPDATE**

The attorney that was hired by area homeowners to dispute the assessment has filed two separate complaints. The first lawsuit is to invalidate the assessment due to procedural mistakes. The second lawsuit involves 7 Deer Crest owners who post marked their protest by the deadline, but was received by the County after the deadline and therefore not counted. As information becomes available we will update homeowners.

### **FINANCIAL UPDATE**

2012 audit was completed by Tanner LLC. There were no adverse conditions and no adjustments and Tanner LLC issued a clean report.

### **RESERVE FUND**

All reserve work for the year has been completed. The reserve fund is 100% funded per the 2012 reserve study requirements. The current study was completed by Complex Solutions. The Estimated Fund Balances are:

January 2012	\$735,000
December 2012	\$890,000

A new reserve study will be completed in 2014. There are no big plans for reserve work next year. There will be reserve work the following year in accordance with the new reserve study requirements.

## **OPERATIONS**

Everything is tracking according to budget. The HOA assessment collections continue to improve. There are 11 outstanding accounts compared to 19 outstanding accounts last year at this time.

## **REINVESTMENT FEES**

There have been 2 new sales this year and 5 re-sales for a total of 7 sales.

## **GATEHOUSE AND SECURITY**

Steve opened a discussion regarding homeowner concerns with the gatehouse and security.

**Q.** I have lost confidence in Pride Security. Would the board consider looking at other options for security?

**A.** Yes.

**Q.** I am concerned with how frequently I am seeing Pride Security patrol. I am only seeing them once a week. Is there a specific number of patrols they are required to do?

**A.** I believe they do 2 patrols during the day and 2 patrols at night.

**C.** Please verify the number of patrols and get back to us. I am only seeing them once a week.

**Q.** What specific service does Pride Security provide and what are the hours of service?

**A.** Pride Security provides random patrols of the community, construction oversight, attendance of pre-construction meetings, and ensure security requirements are met during the construction process. They are the 1<sup>st</sup> responder to issues. An example of an issue would be when CH was trying to install fencing around the exposed foundations and Pride Security alerted the HOA to the unauthorized fencing being installed. Pride Security responds 24/7 to home or gatehouse alarms. They call in law enforcement if necessary and they send daily reports or logs to the HOA.

**Q.** Does the gatehouse get the T-Sheets daily?

**A.** Yes.

**Q.** I am concerned regarding a recent incident that occurred within the community. How does someone walk into a private gated community unnoticed to sell dish network? When Pride Security was questioned, they seemed to be unaware of the full number of homeowners in the community. They had a list which contained only 1/3 of the homeowners in the community. How does this happen? Should we be allowing limited access? Are there cameras?

**A.** Yes. We have cameras at the front and back gate. However, they are not monitored 24/7.

**Q.** Why is it so hard to get the back gate closed at 5pm?

**C.** I was not aware of a back gate problem. I would like to know more about that. This is the first time I have heard there is a back gate and that it is open all of the time.

**C.** We as homeowners have been talking about this issue every year for the last 7 years.

**A.** There is back gate entrance into Tuhaye. It serves as a construction entrance, emergency fire and secondary access on and off the property. It is locked at night only. The HOA is looking into purchasing a back gate similar to the front gate.

**A.** The HOA needs to understand what your expectations and needs for security are as a homeowner. We will bid it and find out the cost. We will gather the necessary information to make an educated decision. If additional staffing is needed we will determine the cost.

**Q.** Why would it cost more to the homeowner? Why can't current staff do more to screen people as to who they are and why they are entering the community?

**Q.** What level of screening do homeowners want? Do you want your landscapers screened?

**C.** Yes! I don't want to pay more, but I feel more could be done by the current staff to address the security concerns of the homeowners without increasing cost.

**C.** We would like to have better security. We would like to know that if visitors and guests are on the property, that someone is aware they are coming. We



want people who come in to be on a pre-approved list. Name, address, and license plate number should be taken. Possibly even ID taken if they are not on the list. Realtors should give their cards to gate attendant and then pick it back up upon exit.

C. I disagree. All real estate agents should have to go to real estate office and check in.

C. That is the current policy. However, there is no way to enforce it.

C. We would like a system managed similar to Promontory.

A. You are looking at an annual security budget of \$720K for Promontory vs. \$220K for Tuhaye. Be aware that these are privately maintained public roads. They are county roads and we cannot legally hold people out. Understand that with increased security there is increased liability.

Q. I do not understand what you mean by liability? When you buy into a gated community you assume you are buying into security.

A. The more security you put in place, the more liability you assume. The recent HOA survey indicates that 50% of homeowners are satisfied with current gatehouse security while the other 50% would like to see change.

C. I propose to form a committee of homeowners with board representation for 90 days to look at the issue and come up with a solution.

A. I, (Jim Pignatelli) volunteer. Homeowners should contact me and I will bring the information back to the board.

#### **CHRISTOPHER HOMES FOUNDATION STATUS UPDATE**

The foundations have all been filled and Christopher Homes has been assessed for the cost and fined. Liens are in place on foundation lots and on the other Christopher Homes lots that have ARC compliance issues. There has been no communication from Christopher Homes or their attorneys. At this point, the Tuhaye HOA, has done everything it is able to do in order to mitigate the nuisance.

Q. Are the liens collective or individual on each property?

A. They are individual liens.

**Q.** After a certain amount of time do we have the ability to foreclose on those homes/foundations with liens?

**A.** The HOA will look into the possibility of foreclosure.

### **CHRISTOPHER HOMES LANDSCAPE UPDATE**

Steve Cassiani, Christopher Communities Board member, volunteered to speak regarding the CH landscape issues.

**Q.** What about the Christopher Homes landscape issues?

**A.** The Christopher Communities at Tuhaye board has approved a rigorous evaluation of the Cottages landscape. They have raised the landscape budget by \$7 or \$8K. They have also assigned a budget of \$7 or \$8K for tree replacement. They are working on mapping the irrigation and making sure the irrigation is no longer neglected. There has been considerable debate in regards to who is responsible to maintain certain areas considered to be common areas where the CH Developer installed landscaping. There is no documentation which clearly defines who is responsible for the maintenance. A landscape maintenance committee has been formed consisting of 4 homeowners to resolve.

**C.** I hope we can take an advisory on future projects to make it possible for the Master Association to have some teeth on the matter should future sub-associations fail.

### **OTHER LANDSCAPING**

**Q.** Are there any plans to landscape the intersection of Twin Peaks? Two bushes and some mulch have been put in. I would like to see a few trees added there.

**A.** I believe water was the issue with putting in landscaping there, but we are working to install a water meter.

**Q.** I would like to see more landscaping, mulch and weeding at Uinta. I would like to see more consistency in landscaping.

**A.** We can take a look at the landscape plan as a whole.

**Q.** Will you be completing the road at Twin Peaks? It is the only area where the earth remains scarred. It needs grass seed.

**A.** The developer will be getting rid of the rocks and taking care of this in the fall.

**Q.** Did the HOA change landscape companies this year? If so, was it less money? It is showing.

**A.** Yes, the HOA did change landscape companies and it was not necessarily less money.

**C.** There are dead trees at front entrance that look terrible. Please remove them.

**A.** The HOA will look into this.

## **RECYCLING**

**Q.** I would like to explore the possibilities of recycling.

**A.** The club is working on establishing a recycling system. The club will expand service to offer homeowner participation. Please contact Debbie Casey for more information.

## **4. GUEST SPEAKER #2: Bill Fiveash, Talisker Senior Vice President, Real Estate Sales.**

The market has changed significantly over this last year. Home site sales are up about 17%. Tuhaye has experienced 2 new sales and 5 re sales this year for 7 total sales. We are seeing fantastic increases in trending. We are trending 10 and 15 transactions at Tuhaye. We forecast 15 sales by year end. There are currently 45 listings. The sales team is their doing our best to get information out there and bring people onsite to realize the great experience we can provide.

**Q.** Do you mention to your clients the value of the club membership?

**A.** The club membership continues to be a huge real estate sales driving force. The buyer does continue to see the club as an asset.

## **FUTURE HOA MEETINGS**

**Q.** Can future HOA meetings be held on Tuhaye property and on the weekend?  
Can we use one of our houses?

**A.** This is the only year the annual meeting could not be held on property due to clubhouse construction, the July 2nd party and the T3 location not being available. The HOA will do our best to facilitate your requests.

**Q.** What did this room cost?

**A.** Steve said he will have to check on that.

**Q.** Can T3 be used for the meeting?

**A.** T3 is currently being used as offices and was unavailable to us for this meeting.

The Tuhaye Home Owners Association annual meeting ended at 5:32pm.